IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 8719 of 2005

Between:

Bondalapati Peddanna S/o.Venkataiah
Muraripalli Village, Yerragondapalem Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District.
2 The Revenue Divisional Officer Markapur, Prakasam District.
3 The Deputy Tahsildar (Enforcement) Yerragondapalem Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or a direction, more particularly one in the nature of writ of Mandamus declaring the orders of the Revenue Divisional Officer, Markapur, Prakasam District in Proceedings No.Rc.H/247/05, dt.28.2.2005 and also the consequential orders of the Joint Collector, prakasam District, in Rc.CS2/1324/2005, dt.5.4.2005 in rejecting the stay petition, as being arbitrary, illegal, apart from being pre-judged and consequently set aside the same and pass such further or other orders as deem fit and proper.

Counsel for the Petitioner: MR.G.ELISHA

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following :

ORAL ORDER:

The authorization of the petitioner as a fair price shop dealer was suspended for a period of two months, pending enquiry, by an order-dated 28.2.2005 of the second respondent.

As against the said order, the petitioner preferred an appeal before the first respondent along with an application seeking interim stay of the order of suspension passed by the second respondent. But, it seems that the said interim application was rejected.

However, after hearing both the counsel, Prima facie, this Court is satisfied that only on the basis of the unilateral report submitted by the third respondent, the impugned order was passed, without conducting any enquiry, for a period of two months. But clause 4 of Rule 5 of the Control Order, 2001 contemplates that before suspending or cancelling the authorization, an enquiry has to be conducted. Therefore, the second respondent is not empowered to place the authorization of the petitioner under suspension for a period of two months, as the rights accrued to the petitioner as per the authorization are affected by virtue of the impugned order.

In that view of the matter, the writ petition is allowed at the stage of admission, and the order dated 28-2-2005 passed by the second respondent is set aside. However, this order does not preclude the respondents to initiate a fresh enquiry into the matter and after completion of any such enquiry to pass appropriate orders in accordance with law. No order as to costs.

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kvsn 20-04-2005

To

1 The Joint Collector, Prakasam District.
2 The Revenue Divisional Officer Markapur, Prakasam District.
3 The Deputy Tahsildar (Enforcement) Yerragondapalem Mandal, Prakasam District.

4 Two CCs to GP for Civil Supplies, High Court buildings, Hyderabad.

5 Two CD copies.